

ITEM 3.1 **CARLTON AND UNITED BREWERIES SITE, CHIPPENDALE**

FILE NO:

MINUTE BY THE LORD MAYOR

To Council:

Last December, The Central Sydney Planning Committee and Council endorsed planning controls for the CUB Site for public exhibition, subject to the completion of a Voluntary Planning Agreement (VPA) to include public benefits for the site, including the proposed 5,000 square metre public park, a \$2.5 million community centre, child care and crossings to regional open space.

Just as the City and the site owners, Foster's, were preparing to announce completion of the VPA, the Minister for Planning intervened to take control of the site under Part 3A of the *Environmental Planning and Assessment Act*.

It is important to note that throughout the process, the state controlled CSPC has been involved and in criticising the process, the Minister is criticising his own appointees, including his own Director general of Planning, the Government Architect as well as two other state government appointees. It seems that when the CSPC failed to produce the outcome he wanted, he shot the messenger, intervened, and is instead appointing a new panel. The Minister's actions show a contempt for professional advice and the democratic process.

To summarise recent events:

- On 25 May the Minister wrote requesting additional matters be negotiated with the state government in the Voluntary Planning Agreement (VPA) and changes to the density controls for the CUB site, indicating he was considering stepping in under Part 3A of the Environmental Planning and Assessment Act;
- On 26 May the site owner, Foster's Australia, contacted my office to confirm that the signing of the VPA would be announced within the next week;
- On 1 June the CSPC resolved that I write to Foster's Australia to seek clarification of their position on signing the VPA;
- On 2 June I wrote to the Minister to respond to his assertions and correct the incorrect information he was quoting as the basis for intervening;
- On 7 June I received confirmation from Foster's Australia that in light of the letter from the Minister, that they were no longer in a position to sign the VPA;
- At an extraordinary meeting on 7 June, the CSPC re-confirmed its support for the draft controls and noted the Minister's intervention had prevented finalisation of the VPA. Despite opposition from the three City members, the four state appointed members voted to request the Minister "call in" the site under relevant State planning legislation;
- On 21 June the Minister publicly announced he was taking control of the site via a press release. No formal letter has yet been received.

The process remains unclear. On 22 June, the CSPC resolved that the Lord Mayor write to the Minister seeking information on the future process, the Voluntary Planning Agreement and public benefits.

At stake here is transparency and accountability: a complex and balanced proposal worked out through extensive planning studies, numerous public forums and negotiations with the site owner could be compromised by a Government deal behind closed doors. I am concerned that the Minister's intervention has jeopardised the extensive work undertaken to set appropriate heritage controls, density limits and public benefits.

The "independent panel" of four members to assist the Minister is made up of one member of his Department, two board members of the Redfern-Waterloo Authority which stands to gain financially from any density increase, and a fourth member who is a state government member of the CSPC and on the board of the State's development arm, Landcom. All are appointed to these positions by the Minister.

This panel will consider the future of the CUB site behind closed doors and have no requirement to consult with the local community or Council, or account publicly for any recommendations which may or may not be accepted by the Minister. The Minister can make his own decisions without public scrutiny or accountability.

I am particularly concerned by reports over the past week that heritage items supported by the CSPC and the City may be removed from protection. If the historic brewery buildings on the CUB site are not retained, then a City asset will be destroyed. This is a unique opportunity to give this development character and preserve our history.

There have been three heritage consultants involved in evaluating these buildings, two of which are Sydney's pre-eminent experts. They all say the group of original brewery buildings create a heritage precinct as important as the heritage of individual buildings. The State Government Heritage Office endorsed the site's Conservation Management Plan.

It appears that the State government has a financial incentive to step in and increase density. Declaring the site state significant ensures the affordable housing levy applies to this site; and maximising density will significantly increase the value of this developer contribution, expected to involve about \$30M and potentially more. The future of this important City site must be based on the extensive expert advice, which conclusively shows that 4:1 is the extreme upper limit of acceptable and achievable Floor Space Ratios (FSR) on this complex site, contingent on design excellence and community benefits and preserving the unique character of the area. We also need to ensure that the state government is accountable and acting in the public interest.

This looks like the Cross City Tunnel all over again – the Government seeking upfront fees in exchange for controls that benefit the developer but are contrary to the public interest.

Recommendation:

That Council:

- (A) confirms support for the draft planning controls endorsed for public exhibition by Council and the CSPC in December 2005, including an FSR range of 3.5 - 4:1;

- (B) calls upon the Minister to acknowledge the extensive studies undertaken to date and the range of experts advice that confirm 4:1 as the maximum acceptable and achievable FSR for the site;
- (C) notes the significance of the heritage precinct in the expert studies undertaken;
- (D) calls upon the Minister to retain the heritage precinct, commit to delivering the proposed community benefits and ensure the FSR does not exceed 4:1 for any future development on this site;
- (E) notes that the only legislative and regulatory provision for imposing an affordable housing levy from the Carlton and United Breweries site is Section 30 of the *Redfern Waterloo Authority Act 2004*, which requires the Minister to declare the site state significant under Part 3A of the *Environmental Planning and Assessment Act*;
- (F) calls upon the Minister to explain why it took him almost two years to declare the site state significant when the RWA legislation earmarking the CUB site was enacted in 2004;
- (G) calls upon the Minister to publicly confirm the rate at which the levy will be imposed and how it will be publicly accounted for by the RWA;
- (H) asks the Acting Chief Executive Officer to seek legal advice on whether there are any grounds to challenge the Minister's action in this case; and
- (I) asks the Acting Chief Executive Officer to provide an estimate of the cost of the extensive work undertaken on this project prior to the Minister's intervention.

COUNCILLOR CLOVER MOORE MP

Lord Mayor